



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0385; FRL- 9823-9]

Approval and Promulgation of Implementation Plans; Florida; Approval of Revision to the State
Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a correction to the Florida State Implementation Plan (SIP) for the State of Florida to remove a provision entitled “Synthetic Organic Fiber Production.” EPA has determined that this provision relating to State rule 62-296.413, was erroneously incorporated into the SIP. EPA is proposing to remove this rule from the approved Florida SIP because the rule is not related to the attainment and maintenance of the national ambient air quality standards (NAAQS).

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0385, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-RDS@epa.gov.

3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2012-0385,” Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2012-0385. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can be reached via electronic mail at sheckler.kelly@epa.gov.

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I. Background

The first significant amendments to the CAA occurred in 1970 and 1977. Following these amendments, a large number of SIPs were submitted to EPA to fulfill new federal requirements. In many cases, states and districts submitted their entire programs, including many elements not required pursuant to the Act. In the 1980's and early 1990's, many states revised their regulations to simplify them through recodification and to correct regulations that were submitted as a part of the first programs submitted that included elements that did not pertain to attainment of the NAAQS.

EPA records indicate that a November 23, 1992, SIP revision from Florida was approved on October 20, 1994 (59 FR 52916). However, the November 23, 1992, SIP did not include a revision to incorporate the rule entitled "Synthetic Organic Fiber Production," 62-296.413 into

the SIP. On December 21, 1994, and on April 15, 1996, the State provided submissions which included miscellaneous revisions and the recodification of the Florida Administrative Code (F.A.C.). F.A.C. 62-296.413 was part of Florida's recodification and was included in these State submittals among other revisions; however, as mentioned above, rule 62-296.413 was never officially submitted for incorporation into the SIP. When EPA took action on June 16, 1999 (64 FR 32346) to approve the recodification and miscellaneous revisions and also to revise the format of 40 CFR part 52 for materials submitted by Florida that are incorporated by reference (IBR) into the SIP, EPA inadvertently incorporated rule 62-296.413 into the regulatory text.

II. Analysis of State Rule and Clean Air Act (CAA or Act) Requirements

The rule entitled "Synthetic Organic Fiber Production," 62-296.413, was originally numbered subsection 17-2.600(13), and was adopted with a state effective date of July 9, 1989, for the sole purpose of controlling acrylonitrile emissions from synthetic organic fiber production facilities in northwest Florida. The rule was only concerned with emissions of toxic air pollutants and not attainment or maintenance of any NAAQS. The rule was in an April 15, 1996, SIP submission along with all other rules that had been simultaneously amended. However, it was not submitted for EPA's approval and incorporation into the SIP. EPA's approval of this provision into the Florida SIP was in error, and EPA is, therefore, proposing to remove the provision from the approved SIP under the authority of section 110(k)(6) of the Act.

Section 110(k)(6) of the Act provides that, whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision was in error, the Administrator may in the same manner as the approval, disapproval or

promulgation revise such action as appropriate without requiring further submission from the State. Such determination and the basis thereof must be provided to the state and public.

III. Proposed Action

For the reasons stated above in , EPA has found that its prior approval of F.A.C. 62-296.413 into the SIP was in error. Consequently, in order to correct this error, EPA is proposing to remove 62-296.413, from the approved Florida SIP pursuant to section 110(k)(6) of the Act and to codify this deletion by revising the appropriate paragraph under 40 CFR part 52, subpart K, Section 52.520 (Identification of Plan).

IV. Statutory and Executive Order Reviews:

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to remove a State rule from the SIP that was erroneously approved by EPA. This action does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 3, 2013.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

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